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November 18, 2021

Via FOIAonline
National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2310A)
Washington, DC 20460

Re: Freedom of Information Act Request

Dear Sirs or Madams:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552. The time frame for the request is from November 18, 2011 to the present.

We respectfully request that the U.S. Environmental Protection Agency (“EPA”) provide electronic copies of the following documents as promptly as possible:

1. All documents evidencing communications between the EPA and the California Air Resources Board (“CARB”) regarding CARB’s issuance of a letter dated June 10, 2020 (Reference No. ADORS-20-015) (“First Letter”) to EZ Lynk SEZC (“EZ Lynk”) and CARB’s subsequent withdrawal and rescission of the First Letter via letter dated August 24, 2021 (Reference No. ADORS-21-005) (“Second Letter”). Such documents should include, without limitation:
 - a. All documents evidencing the time, date, manner of each communication;
 - b. All documents evidencing the participants (and their affiliations) in each such communication; and
 - c. All documents evidencing the substance of each such communication.
2. All documents evidencing internal EPA communications, and communications between EPA and any other federal government agency or department, regarding CARB’s issuance of the First Letter and its subsequent withdrawal and rescission of the First Letter via the Second Letter. Such documents should include, without limitation:
 - a. All documents evidencing the time, date, manner of each communication;
 - b. All documents evidencing the participants (and their affiliations) in each such communication; and
 - c. All documents evidencing the substance of each such communication.
3. All documents evidencing communications between the EPA and CARB regarding any determination by CARB that vehicle tools (including scan tools capable of delivering

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software updates, calibrations and vehicle details to vehicle computers) are either (a) prohibited under or exempt from California state statutes and regulations relating to emissions from mobile sources; (b) permissible under such statutes and regulations; or (c) eligible for or subject to a California executive order under such statutes and regulations. Such documents should include, without limitation:

- a. All documents evidencing the time, date, manner of each such communication;
 - b. All documents evidencing the participants (and their affiliations) in each such communication; and
 - c. All documents evidencing the substance of each such communication.
4. All documents evidencing or relating to the EPA's position regarding the applicability of the Clean Air Act's Title II mobile source provisions to vehicle tools, including onboard diagnostic ("OBD") scan tools and any other systems designed to or capable of interacting with OBD ports and systems. Such documents should include, without limitation:
 - a. All documents evidencing the time, date, manner of any communication regarding such position;
 - b. All documents evidencing the participants (and their affiliations) in each such communication;
 - c. All documents evidencing the capabilities and functions of each such tool, including any capability or function that can be utilized to reprogram vehicle computers or control units; and
 - d. All documents evidencing the substance of each such communication.
5. All documents evidencing the EPA's position regarding the applicability of the Clean Air Act's Title II mobile source provisions to OBD tools manufactured, sold, or offered for sale by original equipment manufacturers ("OEM"), including, for example and without limitation, OEM tools used to deliver software updates and calibrations to vehicle computers. Such documents should include, without limitation:
 - a. All documents evidencing the time, date, manner of any communication regarding such position on such OEM tools;
 - b. All documents evidencing the participants (and their affiliations) in each such communication;
 - c. All documents evidencing the capabilities and functions of each such tool, including any capability or function that can be utilized to reprogram vehicle computers or control units; and
 - d. All documents evidencing the substance of each such communication.
6. All documents evidencing the EPA's position regarding the applicability of the Clean Air Act's Title II mobile source provisions to over-the-air update tools and systems manufactured, sold, leased, or offered for sale by OEMs. Such documents should include:
 - a. All documents evidencing the time, date, manner of any communication regarding such position on such OEM over-the-air update tools and systems;

- b. All documents evidencing the participants (and their affiliations) in each such communication;
 - c. All documents evidencing the capabilities and functions of each such tool, including any capability or function that can be utilized to reprogram vehicle computers or control units; and
 - d. All documents evidencing the substance of each such communication.
7. All documents evidencing the EPA's position regarding the applicability of the Clean Air Act's Title II mobile source provisions and their implementing regulations to electronic logging devices ("ELDs") that interface with a vehicle's OBD system to assist commercial drivers in complying with the Department of Transportation regulations, 49 C.F.R. Part 395. Such documents should include, without limitation:
- a. All documents evidencing the time, date, manner of each such communication;
 - b. All documents evidencing the participants (and their affiliations) in each such communication; and
 - c. All documents evidencing the substance of each such communication.
8. All documents evidencing the EPA's position regarding the applicability of the Clean Air Act's Title II mobile source provisions and their implementing regulations to OBD connector cables, dongles, or any other analogous device or accessory that permits communication between an external computer, smart phone or tablet, or other electronic data processing unit, and a vehicle computer or control unit. Such documents should include, without limitation:
- a. All documents evidencing the time, date, manner of each such communication;
 - b. All documents evidencing the participants (and their affiliations) in each such communication; and
 - c. All documents evidencing the substance of each such communication.

A fee waiver is appropriate here, given that release of the records is likely to contribute to public understanding of the Clean Air Act's applicability to electronic vehicular tools.

If you disagree that we are entitled to a fee waiver, we are willing to pay fees for processing this request up to a maximum of \$2,000. If you estimate that the fees will exceed this limit, please inform me first.

If you have any questions, or if there is additional information that would be helpful, please do not hesitate to contact me. I can be reached via email or telephone as listed above.

Thank you for your prompt consideration and handling of this request.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Bernadette M. Rappold". The signature is stylized with a large, looped "B" and a long, sweeping underline.

Bernadette M. Rappold